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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,159	12/30/2003	Mark S. Fenelon	3288-000012	7803
27572	7590	08/09/2005	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C.			AHMAD, NASSER	
P.O. BOX 828			ART UNIT	
BLOOMFIELD HILLS, MI 48303			PAPER NUMBER	

1772

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/749,159

Applicant(s)

FENELON, MARK S.

Examiner

Nasser Ahmad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 16-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-14 is/are rejected.
- 7) ☒ Claim(s) 8 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/30/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-15, drawn to a partitioning device, classified in class 428, subclass 40.1.
- II. Claims 16-18, drawn to a method for sealingly closing an opening, classified in class 52, subclass 745.15.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions Group I and Group II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product can be used in a materially different process such as protecting confidential information such as lottery ticket information.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Ryan Massey on August 3, 2005 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-15. Affirmation of this election must be made by applicant in replying to this

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Office action. Claims 16-18 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1- 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Banks (2004/0012219).

Banks relates to a partitioning device such as a shield (100) comprising a pre-sized panel (100) having a sealing side, including a perimeter portion, an adhesive trim (134) disposed on said perimeter portion, and a package trim or release liner (paragraph-[0037]). The adhesive includes double-sided adhesive tape because the adhesive adheres to both its sides. The release liner includes release paper.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-2, 4-7, 9 and 11-114 are rejected under 35 U.S.C. 102(b) as being anticipated by Knowlton (4597579).

Knowlton relates to a partitioning device (10) comprising a pre-sized panel (12) having a sealing side including a perimeter portion, an adhesive trim (24) disposed on the trim

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portion, and a package trim or release liner (40) attached to the adhesive. The adhesive is double-sided adhesive tape because it has adhesive on both surfaces. The panel (12) can be a sealing wall and the surface (58) can be the working wall to form a chamber therebetween (see figures 2 and 3). The panel includes an opening (as seen by the finger and/or the nozzle in figures 2 and 3. the opening can be taken as the door opening edge.

Figure-5 shows a panel having a plurality of pre-sized body portions separated by a plurality of detachable seam portions.

The phrase "for sealingly closing an opening", "for forcing a mass", etc. are directed to an intended use of the product and hence, they have not been given any patentable weight because they are not considered positive limitation.

Similarly, claims 6 and 13 are directed an intended future use of the claimed product and have not been given any patentable weight.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knowlton in view of Waugh (446179).

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Knowlton, as discussed above, fails to teach that the release liner is wax paper. Waugh discloses a trim for automobiles wherein the adhesive is protected by a release paper or wax paper (col. 4, lines 5-10). Therefore, it would have been obvious to one having ordinary skill in the art to utilize wax paper as the release liner, instead of release paper as the two were art-recognized equivalents as shown in the Waugh reference.

10. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knowlton. Knowlton, as discussed above, fails to teach that the separable seam portions are perforations. It would have been obvious to one having ordinary skill in the art to provide the seam portions in Knowlton to be perforations because the seam lines are cut through all the layers (col. 5, lines 54-56) and, if the cut lines were not perforation, then the layers would not be able to stay together until individually separated as shown in figure-5.

***Allowable Subject Matter***

11. Claims 8 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fails to teach or suggest that the door opening edge and the closing edge includes a first and second hook-and-loop connector, respectively.

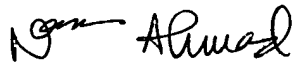
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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Nasser Ahmad 8/7/05  
Primary Examiner  
Art Unit 1772

N. Ahmad.  
August 7, 2005.